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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|---------------------------|--|
| Proceeding | 91193335 |
| Party | Defendant RStudio, Inc. |
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EMBARCADERO TECHNOLOGIES, INC.,

Opposer,

v.

RSTUDIO, INC.

Applicant.

Opposition No. 91193335

Applications S.N.

77/691980

77/691984

77/697987

APPLICANT'S MOTION TO AMEND APPLICATIONS

Pursuant to 37 C.F.R. § 2.133 and § 514 of the Trademark Board Manual of Procedures, Applicant RStudio, Inc., through its attorneys, hereby respectfully moves the Board to amend the three opposed applications at issue in the instant case, specifically the identification of goods and services contained therein, in the event that the Board deems such amendments necessary to dismiss the opposition.¹

Applicant requests the following changes to Application No. 77/691980 (proposed new language underlined and proposed language for deletion stricken through):

Computer software for advanced statistical computing using the R computing language and data from two dimensional datasets
~~computer software for software applications development.~~

Such that the identification of goods be amended to state:

Computer software for advanced statistical computing using the R computing language and data from two dimensional datasets.

Applicant requests the following changes to Application No. 77/691984 (proposed new

¹ The Board may elect to defer its decision on this motion until it considers the overall merits of this Opposition. See *Space Base Inc. v. Stadis Corp.*, 17 USPQ2d 1125 (TTAB 1990) (deferring decision on motion to amend identification of goods until final decision).

language underlined and proposed language for deletion stricken through):

Providing training in the use of computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; providing training in the use of advanced statistical methods ~~and related computer software using the R computing language and data from two dimensional datasets.~~

Such that the identification of services be amended to state:

Providing training in the use of computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; providing training in the use of advanced statistical methods using the R computing language and data from two dimensional datasets.

Applicant requests the following changes to Application No. 77/691987 (proposed new language underlined and proposed language for deletion stricken through):

Application service provider (ASP) featuring software for advanced statistical computing ~~and software applications development~~ using the R computing language and data from two dimensional datasets; ~~computer software~~ consultation regarding computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; design and development of computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; technical support services, namely, troubleshooting of problems with computer software ~~programs~~ for advanced statistical computing using the R computing language and data from two dimensional datasets.

Such that the identification of services be amended to state:

Application service provider (ASP) featuring software for advanced statistical computing using the R computing language and data from two dimensional datasets; consultation regarding computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; design and development of computer software for advanced statistical computing using the R computing language and data from two dimensional datasets; technical support services, namely, troubleshooting of problems with computer software for advanced statistical computing using the R computing language and data from two dimensional datasets.

As grounds for this motion, Applicant states that the above proposed amendments accurately convey the goods and services that Applicant offers and intends to offer in conjunction with the mark RSTUDIO, which is the subject of the three applications at issue in this matter. Moreover, and in compliance with 37 C.F.R. § 2.71(a), the proposed amendments serve to clarify and limit but in no way broaden the identification of goods and services.

WHEREFORE, Applicant requests the Board to amend the opposed applications in the manner described above.

Respectfully submitted,

RSTUDIO, INC.

Dated: November 10, 2010

/Anthony E. Rufo/

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the above-identified MOTION TO AMEND APPLICATION upon Opposer's attorneys of record:

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/Anthony E. Rufo/
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DATED: November 10, 2010